IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

MACA.No. 252 of 2005

OPMV.7/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KALPETTA
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APPELLANTS/CLAIMANTS 2 TO 6 IN THE OP

1. MONI AUGUSTINE W/O. V.O.AUGUSTINE
VENGAKKAL HOUSE, KENICHIRA POST, WAYANAD DISTRICT.

2. SHYNY AUGUSTINE, D/O. AUGUSTINE,
VENGAKKAL HOUSE, KENICHIRA POST WAYANAD DISTRICT.

3. BEENA AUGUSTINE, D/O. AUGUSTINE,
VENGAKKAL HOUSE, KENICHIRA POST, WAYANAD DISTRICT.

4. SABU AUGUSTINE, S/O. AUGUSTINE,
VENGAKKAL HOUSE, KENICHIRA POST, WAYANAD DISTRICT.

5. SUNIL AUGUSTINE, S/O. AUGUSTINE,
VENGAKKAL HOUSE, KENICHIRA POST, WAYANAD DISTRICT.

BY ADV. SRI.T.KURIAKOSE PETER
SRI.ABRAHAM P.GEORGE

RESPONDENTS: RESPONDENTS 1 TO 3 IN THE OP

1. ABDUL RASAK, AGED 44 YEARS,
S/O. HAMSA, KANNAYAMKUNNUMMAL HOUSE,
KAKKAVAYAL POST, MUTTIL AMSOM, VYTHIRI TALUK,
WAYANAD DISTRICT.

2. T.T.SUNNY, FATHER'S NAME NOT KNOWN,
THANDAKATTIL HOUSE, MEENANGADI POST,
BATHERY TALUK, WAYANAD DISTRICT.

3. THE BRANCH MANAGER, NATIONAL INSURANCE
COMPANY LIMITED, KALPETTA.

BY ADV. SRI.LAL GEORGE FOR RESPONDENT NO.3

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 18/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.S.RADHAKRISHNAN & A.K.BASHEER, JJ.

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C.M.APPL.No.292 OF 2005 &
M.A.C.A.No.252 OF 2005

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Dated this the 18th day of September, 2007

JUDGMENT

Radhakrishnan, J

There is a delay of 813 days in filing this appeal. We have gone through the affidavit filed in support of the petition for condonation of delay. Sufficient grounds have been made out to condone the delay.

2. The appeal was preferred by the appellants against the award passed by the M.A.C. Tribunal, Wayanad. Appellants filed the original petition for compensation on account of the death of Prasad the son of the 1st appellant on 6.8.95 in an accident. At the time of his death he was a cooli and an agriculturist. He was the sole earning member of the family. The father died during the pendency of the petition before the Tribunal. The 1st respondent is the driver, the 2nd respondent is the owner of the offending vehicle and the 3rd respondent is the insurance company. The total amount claimed in the petition was Rs.5,00,000/-. Tribunal awarded an amount of Rs.50,600/-.

3. Considering the facts and circumstances of the case, we are inclined to modify the award passed by the Tribunal awarding an additional amount of Rs.15,000/- towards love and affection; for loss of consortium : Rs. 15,000/-; for pain and suffering : an additional amount of Rs.2,500/-; for loss of estate and dependency another amount of Rs.25,000/-. Thus, the appellants are entitled to get an additional compensation of Rs.57,500/- with interest at the rate of 7% from the date of the petition till payment. Payment will be made within two months from today.

In such circumstances, C.M.Appl.No.292/2005 is allowed and the appeal is disposed of as above.

K.S.RADHAKRISHNAN, JUDGE

A.K.BASHEER, JUDGE

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